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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,481	04/21/2004	Aloys Wobben	970054.401RI	5874

500 7590 01/30/2007
SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
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EXAMINER

PONOMARENKO, NICHOLAS

ART UNIT	PAPER NUMBER
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2834

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/30/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/829,481

Applicant(s)

WOBBEN, ALOYS

Examiner

Nicholas Ponomarenko

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4,6,9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4,6,8,9,11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/21/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendments filed 11/14/05 and 12/21/05 are improper under 37 CFR 1.173 (b) and (d). In a reissue application, added subject matter **relative to the patent** (i.e., not relative to previous amendment) should be underlined and subject matter to be deleted **relative to the patent** should be bracketed (i.e., no strike-through). For example, since claim 9 is a new claim (i.e., not in the original patent), it should always be totally underlined, whenever it is submitted. This also applies to the amendment to the specification. The amendment to the drawing filed on 11/14/05 is also improper since under 37 CFR 1.173(b)(3), the figure must be identified as "Amended."

Reissue Applications

2. Claims 2-4, 6, 8-9 and 11-17 are rejected under 35 U.S.C. 251 since the original patent is now expired due to nonpayment of the maintenance fees.

Claims are rejected as being based upon a defective request to reissue the expired patent under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) is set forth in the discussion above in this Office action.

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Conclusion

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Ponomarenko whose telephone number is (571) 272- 2033, Fax: (571) 273-2033, or to his SPE Darren Schuberg – (571) 272-2044.
2. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 2800 Customer Service
Phone: (571) 272-2815

np
December 28, 2005



**Nicholas Ponomarenko
Primary Examiner
Technology Center 2800**